

## **REMARKS**

Claims 26, 28-35, 40-42, 48-51 and 53 remain for prosecution in the present application. Reconsideration and allowance of all pending claims are requested in view of the foregoing amendments and the following remarks.

### **35 USC §112 Rejection**

Claims 26, 28 and 29 have been rejected under 35 USC §112, first paragraph for alleged failure to meet the enablement requirement as to the “at least one internal lug” limitation in claim 26. The Examiner suggests that the disclosure is limited to “at least one pair of lugs.” It is unclear what the Examiner means by a “pair.” Claim 26 recites “at least one external lug” on the container finish and “at least one internal lug” on the closure skirt. Thus, claim 26 recites a “pair” of lugs, one on the container finish and one on the closure skirt.

If the Examiner is suggesting that the disclosure is limited to having a “pair” of external lugs on the closure finish and another “pair” of internal lugs on the closure skirt, this is not correct. There must be one lug on the finish for each thread segment on the finish and one lug on the closure skirt for each thread segment on the skirt to ensure that the lugs interact when the closure is applied. In the exemplary embodiment of the disclosure, there are four lugs on the finish and four lugs on the skirt because there are four thread segments on the finish and skirt. If there were only one thread segment on the container neck finish and one thread segment on the closure skirt, then only one finish lug and only one closure lug would be required. This is well understood in the art.

Applicant also notes that the claim language “at least one lug” was in claim 26 as originally filed, and hence was part of the original disclosure. The specification sets forth examples and support for at least one internal lug that has an axially oriented cam

face as recited in claim 26. In any event, the “at least one internal lug” referred to in claim 26 is fully supported by the specification and readily understandable by persons skilled in this art. For at least these reasons, this rejection of claim 26 (and also claims 28 and 29) should be withdrawn.

#### **Independent Claim 26 and its Dependent Claims**

Claim 26 also was rejected under 35 USC §103 as unpatentable over the new combination of Reiss et al and Swartzbaugh et al. The Reiss patent discloses a package that includes a closure 20 applied to the neck 28 of a container 22 and a disk 52 disposed between the closure and the container neck. The container neck has a thread 30 and a projection 34 separate from the thread. The closure has an internal projection 44 on the closure skirt spaced from the end of a thread segment. The projection 34 on the container neck functions as a stop for projection 44 on the closure skirt so that projection 44 is received between projection 34 and the thread end when the closure is fully applied (FIG. 5). In Reiss, the internal projection or lug 44 on the closure skirt does not travel over or past the stop lug or projection 34 or the container neck. Thus, neither projection 34 nor projection 44 in Reiss has any need for a cam surface that enables projection 44 to ride over projection 34 as the closure is applied.

Swartzbaugh likewise does not disclose at least a closure having an internal lug with an axially oriented cam face sloped toward a base wall such that threading said closure onto said finish in a clockwise direction causes said at least one lug on said skirt to cam axially away from said open end relative to said at least one lug on said finish by compression of said at least one spring element, as recited in claim 26. Rather, in Swartzbaugh, the lugs on the container skirt are provided to facilitate removal of a closure from a finish, and not to secure the closure on the finish. Accordingly, Swartzbaugh

teaches directly away from providing a closure with a lug having an axially oriented cam face sloped toward a base wall, and instead teaches closure lugs useful only to assist removing the closure. Because neither Reiss nor Swartzbaugh disclose at least the recited limitations in claim 26, no combination of these references can be made which does so. Accordingly, even if Reiss and Swartzbaugh could properly be combined despite their divergent disclosures, which Applicant does not concede, no such combination could meet the combination of features recited in claim 26. For at least these reasons, claim 26 defines patentable subject matter over all cited references.

Claims 28 and 29 are dependent upon claim 26 and define patentable subject matter for at least those reasons that claim 26 is patentable and for the additional points of novelty recited in these dependent claims.

#### **Independent Claim 30 and its Dependent Claims**

Claim 30 stands rejected under 35 USC §103 as unpatentable over the new combination of Reiss et al in view of Swartzbaugh et al and further in view of Buono. Claim 30 has been amended to recite that one of said internal lugs has an axially oriented cam face that slopes toward said base wall. Buono discloses radially extending locking teeth 4' on its closure and does not disclose an internal lug on its closure with an axially oriented cam face. And as noted above with regard to claim 26, neither Reiss nor Swartzbaugh disclose at least this feature. Accordingly, no combination of Reiss, Swartzbaugh and Buono can be made which provides for features that neither of them has. Further, it hardly would have been obvious to combine Reiss (which has a projection that does not include any cam face at all) with either Swartzbaugh (which has a cam on its closure only to facilitate removal of the closure) or Buono (which has only radially extending teeth disengaged from teeth on the container finish only by squeezing and deforming the

closure). Indeed, the teachings of these references are too divergent to usefully combine, and in any event, one skilled in the art could not combine these references and arrive at the construction and arrangement recited in claim 30. Instead, it is submitted that what these references teach as a whole has not been considered, but instead applicants' claims have been considered as a shopping list selectively to combine unrelated elements from the cited references. That is, the references themselves do not support the suggested combination. Such improper hindsight analysis cannot support a rejection under §103. For at least these reasons, claim 30 defines patentable subject matter over all the cited references.

Claims 31 -35 are dependent upon claim 30 and define patentable subject matter for at least those reasons that claim 30 is patentable and for the additional points of novelty recited in these dependent claims.

#### **Independent Claim 40 and its Dependent Claims**

Claim 40 also stands rejected under 35 USC §103 as unpatentable over the new combination of Reiss et al in view of Swartzbaugh et al and further in view of Buono. Claim 40 has been amended to recite that the leading internal lug of a closure has a cam face for camming said leading internal lug over said external lug as said closure is threaded onto said finish. As discussed above, none of the cited references discloses such a construction and arrangement and, therefore, claim 40 defines patentable subject matter over all cited references.

Claims 41, 42, and 48-51 are dependent upon claim 40 and define patentable subject matter for at least those reasons that claim 40 is patentable and for the additional points of novelty recited in these dependent claims.

### **Independent Claim 53**

Claim 53 has been amended in a manner similar to claim 40 and defines patentable subject matter for at least those reasons that claim 40 is patentable and for the additional points of novelty recited in claim 53.

### **CONCLUSION**

It therefore is believed and respectfully submitted that all claims 26, 28-35, 40-42, 48-51 and 53 remaining in the application are allowable at this time, and favorable consideration is respectfully requested.

Please charge any fees associated with this submission to Account No. 50-4417 (Rexam Plastic).

Respectfully submitted,

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By

A handwritten signature in black ink, appearing to read 'R. Collins', is written over a horizontal line.

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